

REMARKS/ARGUMENTS

Applicants affirm the election of Group I, claims 1-10 and as such claims 11-15 are withdrawn. Claims 1, 4 and 10 have been amended and claims 2 and 3 have been canceled without prejudice or disclaimer. Claims 1, 4 - 9 and 10 remain in the application. No new matter has been added. Reconsideration of this application is respectfully requested.

Objection to the specification:

The specification has been amended on page 4, line 4 such that after the word "diaphragm," designator "108" has been changed to -- 114 -- as noted by the Examiner. Applicants respectfully request that the objection now be withdrawn.

Objection to the Drawings:

The drawings were objected to because the references "114" and "314" were not mentioned in the description.

The amendments to the specification above address the matter pertaining to designator "114" per the Examiner's input and Applicants respectfully request that the objection be withdrawn.

As to designator "314", the specification has been amended on page 6, line 5 to include the words "on either side of diaphragm 314,". No new matter has been added as the diaphragm has been shown and properly described in other figures. Applicants respectfully request that the drawing objection now be withdrawn.

Claims 1-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Killion (US 3,835,263).

Claims 1-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Berland (US 4,142,072).

Independent claim 1 has been amended to recite a movable MEMS switch and the automatic sealing and unsealing of the second audio port in response to operating context. Claim 1 has been further amended to recite the incorporation of the MEMS microphone, first and second audio ports and movable MEMS switch into a single package.

Independent claim 10 now recites the MEMS switch being automatically movable based on operating mode and further recites the single package integration aspect of the invention.

The new wording is supported in the specification at least on page 3, line 13; page 3, lines 22- 23; page 4, lines 13-15, 21-23 and FIGs. 1, 2, and 3. No new matter has been added by these changes. These amendments have been made solely for the purposes of more clearly and particularly describing and claiming the invention, and not for purposes of overcoming art.

Neither of the cited references teaches nor suggests that which is recited in amended claims 1 and 10. Accordingly, independent claims 1 and 10 are believed to be in condition for allowance. Claims 4-9 provide further limitations to what is believed to be an allowable claim 1 and hence are also in condition for allowance

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

The Commissioner is hereby authorized to charge Deposit Account 502117, Motorola, Inc, with any fees which may be required in the prosecution of this application.

Respectfully submitted,

October 31, 2006

Motorola, Inc.
8000 West Sunrise Boulevard
Law Department – MD1610
Plantation, Florida 33322
Customer Number: 24273

By: /Barbara R. Doutre/
Barbara R. Doutre
Attorney of Record
Reg. No.: 39,505
Tel: 954-723-6449
Fax: 954-723-3871
E-Mail: docketing.florida@motorola.com